

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LIBERTY MUTUAL PERSONAL INSURANCE
COMPANY a/s/o KELLY SHAW,

Plaintiff,

vs.

ENERCO GROUP, INC.,

Defendant.

CIVIL ACTION NO.

(Court of Common Pleas Philadelphia
County Civil Action No. 240600557)

NOTICE OF REMOVAL

TO: The United States District Court for the Eastern District of Pennsylvania

Defendant, Enerco Group, Inc., (“Defendant”) hereby removes this action, captioned, *Liberty Mutual Personal Insurance Company a/s/o Kelly Shaw v. Enerco Group, Inc.*, from the Court of Common Pleas, Philadelphia County, Pennsylvania, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446. In support, Defendant states the following:

BACKGROUND

1. Plaintiff Liberty Mutual Personal Insurance Company alleges it issued a policy of insurance to Kelly Shaw that provided coverage for, among other things, fire-related damage to real property located at 4021 Old Orchard Road, York, Pennsylvania (the “subject property”). (Compl., ¶3).

2. Plaintiff claims that on or about December 20, 2022, the subject property sustained damages from a fire that allegedly originated in a propane heater manufactured by Defendant. (Compl., ¶9).

3. Plaintiff a/s/o of Kelly Shaw asserts claims against Defendant based on strict product liability (Count I), negligence (Count II), breach of implied warranty of merchantability (Count III), breach of implied warranty of fitness for a particular purpose (Count III), and Pennsylvania Unfair Trade Practices and Consumer Protection Law (Count V).

DIVERSITY OF CITIZENSHIP

4. There is complete diversity of citizenship between the parties to this action.

5. Based upon information and belief, Plaintiff is a New Hampshire domiciled property and casualty insurer. Its principal place of business is in Massachusetts (Compl., ¶1). As such, Plaintiff is a citizen of New Hampshire and Massachusetts for purposes of 28 U.S.C. §§ 1332 and 1441.

6. At all relevant times, Plaintiff's insured, Kelly Shaw, was a resident of Pennsylvania. (Compl., ¶2). As such, Plaintiff's insured is a citizen of Pennsylvania for purposes of 28 U.S.C. §§ 1332 and 1441.

7. Enerco Group, Inc. is incorporated under the laws of the State of Ohio with its principal place of business located in Cleveland, Ohio. As such, Enerco Group, Inc. is a citizen of Ohio for purposes of 28 U.S.C. §§ 1332 and 1441.

AMOUNT IN CONTROVERSY

8. Plaintiff seeks in excess of \$75,000. (Compl., ¶15).

PROCEDURAL

9. This action is removable to the United States District Court for the Eastern District of Pennsylvania, because it is the district court embracing the place where the action is pending. *See* 28 U.S.C. §118(a).

10. The filing of this Notice of Removal is timely, as it is filed within 30 days of service of Plaintiff's Complaint on June 13, 2024. 28 U.S.C. § 1446(b).

11. The time within which Defendant is required to respond to the Complaint has not expired, and the Defendant has not yet filed an Answer or other pleading in response to the Complaint.

12. Copies of all process, pleadings, and orders served upon and by Defendant are attached as **Exhibit A**.

13. A copy of this Notice of Removal is being filed with the clerk of the state court from which this action has been removed and is being served upon all parties, in accordance with 28 U.S.C. § 1446(d).

14. If any question arises as to the propriety of the removal of this action, Defendant requests the opportunity to present a brief and request oral argument in support of the removal.

15. By filing this Notice of Removal, Defendant does not waive any defenses, objections, or motions available under state or federal law in this action.

Respectfully submitted,

SAXTON & STUMP

Dated: July 3, 2024

By:



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